

Plaintiffs allege they received TCPA-violating phone calls placed by Chris Biz Services. (FAC 23, 26, 32-36, 42). Plaintiffs allege these phone calls were prerecorded in nature and also were received by phone numbers registered to the National Do-Not-Call Registry.

III. ARGUMENT – PLAINTIFFS’ COMPLAINT FAILS TO ALLEGE FACTS DEMONSTRATING THIS COURT HAS JURISDICTION OVER CUENZA

A. Legal Standards Applicable to the Court’s Exercise of Personal Jurisdiction

Federal Courts may exercise personal jurisdiction over a nonresident defendant so long as state law confers such jurisdiction, and its exercise comports with due process under the Constitution. Due process permits the exercise of personal jurisdiction over a nonresident defendant where the defendant has purposefully established “minimum contacts” with the forum state such that maintenance of the suit does not offend traditional notions of fair play and substantial justice.” *Int’l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945).

Under this standard, the minimum contacts of the nonresident defendant may establish either “general” or “specific” jurisdiction. A Court has general personal jurisdiction over a nonresident defendant “when defendant’s affiliations with the state are so continuous and systematic as to render [the defendant] essentially at home in the forum State.” *Daimler AG v. Bauman*, 571 U.S. 117, 127 (2014).

Plaintiff bears the burden of establishing a prima facie case of personal jurisdiction. Here the Plaintiffs’ have not even attempted to make any case that this Court could exercise jurisdiction over Defendant Cuenza. Plaintiffs’ do not allege a single sentence in their FAC that accuses Cuenza of having any personal involvement at all in the alleged activities. The only mentions of Cuenza are, “Cuenza is a Nevada resident who owns/operates CBS.” FAC ¶ 4;

“Defendant Cuenza is the owner/operator of CBS.” FAC ¶ 20; and “The following individuals are excluded from the Classes:...(2) Defendant CBS and Defendant Cuenza” FAC ¶ 49.

Plaintiffs do not allege any contact with the State of Florida by Defendant Cuenza.

Plaintiffs do not allege any contacts with the State of Florida that were directed by Defendant Cuenza. Due process permits the exercise of jurisdiction over a defendant where the defendant has purposefully established “minimum contacts” with the forum state. There is not a single contact with the forum state that has been alleged by Plaintiffs. There is not a single factual allegation contained in the FAC through which Plaintiffs have plausibly pled that Florida can somehow exercise personal jurisdiction over Defendant Cuenza, a California resident.

IV. CONCLUSION

For the reasons set forth above, Cuenza respectfully requests that the Court grant his motion to dismiss.



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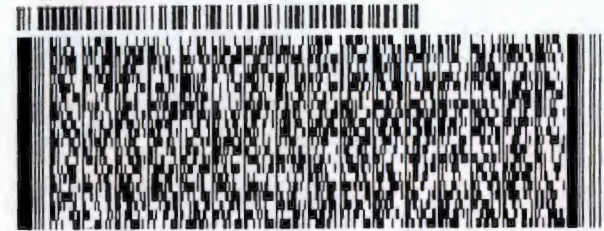
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